



September 12, 2001

**Via Federal Express**

Brian Nishitani, Esquire  
Assistant Regional Counsel  
United States Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

Re: CERCLA §104(e) Request re Lower Darby Creek Superfund Site  
Clearview Landfill, Folcroft Landfill and Folcroft Landfill Annex  
Our File No. 016229-018309

Dear Mr. Nishitani:

Thank you for extending our time to respond to Mr. Larry S. Miller's July 17, 2001 request under CERCLA §104(e) for information about Clearview Landfill, Folcroft Landfill and Folcroft Landfill Annex, portions of the Lower Darby Creek Superfund Site. Mr. Miller's request was addressed to Graduate Hospital LLC.

As you know from our prior correspondence, Tucker Arensberg, P.C., is counsel to Tenet HealthSystem Graduate, LLC ("Tenet-Graduate") in connection with the AHERF, et al., bankruptcy case, Bankruptcy No. 98-25773-MBM (WDPA). Tenet-Graduate acquired the assets that now comprise the Graduate Hospital on November 10, 1998, pursuant to a bankruptcy sale free and clear of liens, claims and encumbrances.

Tenet-Graduate acquired those assets pursuant to a Sale Order entered by the Bankruptcy Court for the Western District of Pennsylvania on October 1, 1998, whereby the Bankruptcy Court, *inter alia*, approved the sale of assets to Tenet HealthSystem Philadelphia, Inc. and its affiliates, including Tenet-Graduate (collectively herein, "Tenet"), pursuant to 11 U.S.C. §363, free and clear of liens, claims, encumbrances and interests, and approved in its entirety that certain Asset Purchase Agreement by and among Diversified Health Group and Debtors Allegheny Health Education and Research Foundation (AHERF), Allegheny University Hospitals, Centennial, Allegheny University Medical Practices, and Allegheny University of the Health Sciences as Sellers, and Tenet, as Buyer. We have already provided copies of the Sale Order and Asset Purchase Agreement.

The Sale Order provides that the assets were sold to Tenet "free and clear" of all "liens, claims, interests and encumbrances," "obligations," and "contractual commitments," whether "matured or unmatured, liquidated or unliquidated, whether known or unknown." (Sale Order, ¶¶3, 5.) The Sale Order also provides that "[w]ith the exception of any liabilities specifically assumed under the Asset Purchase Agreement, all persons and entities holding Liens or Claims of any kind and nature against any of the Debtors or with respect to the Assets are hereby barred and enjoined from asserting such Liens and Claims against the Assets or Tenet, its successors, designees (including Restructured

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University) or assigns, or their respective affiliates, shareholders, members, officers, directors or trustees." (Sale Order, ¶18.) The only liabilities assumed by Tenet were Assumed Contracts, consisting of certain executory contracts and unexpired leases.

Mr. Miller's §104(e) Request pertains to disposals between 1958 and 1976. Because those disposals occurred long before the November 10, 1998, Closing Date, liability for the disposals is an excluded liability under the terms of the court-approved Sale Order and so may not be asserted against Tenet. Nevertheless, Tenet supplies the following information in response to the §104(e) Request.

Please handle all of the following information under a Claim of Business Confidentiality.

**Response to CERCLA §104(e) Request:**

1. The company name is Tenet HealthSystem Graduate, L.L.C., d.b.a. Graduate Hospital.
  - a. The mailing address is 3820 State Street, Santa Barbara, CA 93105, Attention: Eleanor R. Lynn, (805) 563-7118.
  - b. The company is a Limited Liability Company, and it was incorporated in Pennsylvania on October 5, 1998.
  - c. The parent corporation of the company is Tenet HealthSystem Philadelphia, Inc. There are no subsidiaries. The parent company owns other hospitals in the Philadelphia, Pennsylvania area.
2. The business conducted at our establishments in the Philadelphia, Pennsylvania area is hospital acute care. Our company was incorporated in 1998 for the purpose of acquiring the assets pursuant to the Sale Order. Our company did not do business between 1958 and 1976.
3. There are no persons currently employed by our establishments who have personal knowledge of operations and waste disposal practices between 1958 and 1976. We were not operating during that time period. We understand that a prior owner of the facility employed a Mr. John Nemetz from August 11, 1969 to March 28, 1992, before Tenet acquired the hospital. Mr. Nemetz may have information in response to your requests:

John Nemetz



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4. Tenet-Graduate acquired the assets that now comprise the Graduate Hospital on November 10, 1998, pursuant to a Sale Order entered by the Bankruptcy Court for the Western District of Pennsylvania on October 1, 1998, whereby the Bankruptcy Court, *inter alia*, approved in its entirety that certain Asset Purchase Agreement by and among Diversified Health Group and Debtors Allegheny Health Education and Research Foundation (AHERF), Allegheny University Hospitals, Centennial, Allegheny University Medical Practices, and Allegheny University of the Health Sciences as Sellers, and Tenet, as Buyer. Otherwise, we do not have personal knowledge of the owners and operators of Graduate Hospital from 1958 to 1988. We have general knowledge to the effect that AHERF's interest was acquired from SDN, which acquired its interest in 1995 from Graduate Health Systems Inc. (now PHCT). GHSI acquired its interest from Graduate Health Systems, which was previously Graduate Hospital, which acquired Graduate Hospital from University of Pennsylvania. We generally are aware but lack personal knowledge that Graduate Health Systems was created sometime in the 1980s. Graduate Health System was the sole member or shareholder of Graduate Hospital, which was a not-for-profit PA corporation. We understand that the Sellers acquired the property from Graduate Health System, Inc., a Pennsylvania non-profit corporation, formerly known as Graduate Hospital Foundation, and now known as Philadelphia Health Care Trust. The owner of Graduate in the 1970s was, we believe, the University of Pennsylvania.

a. Dates of operation: Tenet-Graduate has operated Graduate Hospital from 1998 to present.

b. Nature of the operation: delivery of hospital acute care.

c. While we have some documents that predate our 1998 acquisition of the facility, we have not found any documents relating to the 1958 to 1976 time period. We have some archived documents from prior owners, but nothing older than 1989. We are aware that Waste Management was engaged for waste disposal for some period of time prior to our ownership. Documents for the period we have operated Graduate Hospital can be provided, but we believe they are irrelevant to your inquiry.

5. We have no information concerning the types of documents generated or maintained concerning the handling and/or generation, storage, treatment, transportation, recycling, formulation, or disposal of any hazardous substance, hazardous waste, pollutant, contaminant or other waste between 1958 and 1976, because we were not in existence or operation during that time period.

a. Description of information and custodian: not applicable.

b. Description of permits and correspondence: not applicable.

c. Description of contracts or correspondence regarding transportation: not applicable.



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6. We have no information concerning the hazardous substances used, generated, purchased, stored, or otherwise handled at the facility between 1958 and 1976 because we were not in existence or operation during those time periods. We likewise have no information concerning chemical analyses and Material Safety Data Sheets ("MSDS") because we were not in existence or operation during those time periods.

- a. Process of use and handling of hazardous substance: not applicable.
- b. Chemical composition, physical state of hazardous substance: not applicable.
- c. Annual quantity of hazardous substance: not applicable.
- d. Periods of use of each hazardous substance: not applicable.
- e. Types and sizes of containers for storage and transportation: not applicable.
- f. Persons or companies that supplied each hazardous substance: not applicable.

7. We have no information concerning the by-products and wastes generated, stored, transported, treated, disposed of, released, or otherwise handled by the between 1958 and 1976 because we were not in existence or operation during those time periods.

- a. Process of generation, disposal, release of by-product and waste: not applicable.
- b. Chemical composition and physical state of by-product or waste: not applicable.
- c. Annual quantities of each by-product and waste generated or handled: not applicable.
- d. Types and number of containers use to treat, store, dispose of waste: not applicable.
- e. Name of individual(s) and/or companies disposing of waste: not applicable.
- f. Location and method of treatment and/or disposal of each by-product or waste: not applicable.

8. Our company did not contract with, or make arrangements with Clearview, Folcroft, Folcroft Annex, Eastern industrial, Tri-County Hauling, S. Buckly Trash Hauling, Baratt Rupurt, McCloskey Engineering, Marvin Jonas Waste Removal, Schiavo Bros., Inc., ADM Disposal Services and/or any other company or municipality to remove or transport material from the facility because we were not in existence or operation during the 1958-76 time period.



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9. The names, titles, areas of responsibility, addresses, and telephone numbers of all persons who, between 1958 and 1976 may have:

a. Disposed of or treated materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site: unknown.

b. Arranged for the disposal or treatment of materials at Clearview, Folcroft and Folcroft Annex or other areas of the Site: unknown.

c. Arranged for the transportation of materials to Clearview, Folcroft and Folcroft Annex or other areas of the Site (either directly or through transshipment points) for disposal or treatment: unknown.

Former employee Mr. John Nemetz may have information in response to these requests.

10. Since our acquisition of the Graduate Hospital facility in 1998, the facility has not and does not dispose of or treat material at Clearview, Folcroft and Folcroft Annex or other areas of the Site. Nor has the facility arranged for the disposal or treatment of material at the Site. Categories a-e are not applicable.

11. Since our acquisition of the Graduate Hospital facility in 1998, neither our facility nor any other company or individual, to our knowledge, has spilled or caused a release of any chemicals, hazardous substances, and/or hazardous waste, and/or non-hazardous solid waste on any portion of Clearview, Folcroft and Folcroft Annex or any other portion of the Site. Categories a-d are not applicable.

12. Our facility did not employ individuals who were responsible for arranging for the removal and disposal of wastes, or individuals who were responsible for payments, payment approvals, and record keeping concerning such waste removal transactions between 1958 and 1976, because we were not in existence or operation during those time periods. We understand that a prior owner of the Graduate Hospital facility employed a Mr. John Nemetz from August 11, 1969 to March 28, 1992, before Tenet acquired the hospital. Former employee Mr. John Nemetz may have information in response to these requests.

13. Neither we nor any person or entity on our behalf has ever conducted any environmental assessments or investigations relating to contamination at Clearview, Folcroft and Folcroft Annex or any other areas of the Site.

14. We do not have any information about other parties who may have information that may assist the EPA in its investigation of the Site, or who may be responsible for the generation of, transportation to, or release of contamination at the Site, except for John Nemetz.

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15. The person(s) answering these questions on behalf of Tenet HealthSystem Graduate, L.L.C., d.b.a. Graduate Hospital are:

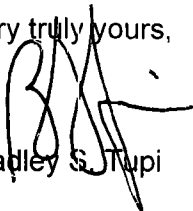
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(412) 594-5545

Ms. Theresa Angelone  
1800 Lombard Street  
Philadelphia, PA 19146  
(215) 893-2500

16. Because we have only operated the facility since 1998, we do not believe our records are relevant. However, if you determine that they are relevant, we can make them available.

Very truly yours,



Bradley S. Tupi

/bst

cc: Eleanor R. Lynn, Esquire  
Beverly Weiss Manne, Esquire  
Karen Rothberg, Esquire  
Jeff Thompson, Esquire  
Mark Freedlander, Esquire  
Michael Forman, Esquire  
Marc Cornblatt, Esquire

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